

**§ 1955.42 Exceptions.**

(a) Within 30 days after service of the decision of the administrative law judge, any party may file with the Secretary written exceptions thereto with supporting reasons. Such exceptions shall refer to the specific findings of fact, conclusions of law, or terms of the rule or order excepted to; and shall suggest corrected findings of fact, conclusions of law, or terms of the rule or order referencing the specific pages of the transcript relevant to the suggestions. Requests for extension of time to file exceptions may be granted if the requests are received by the Secretary no later than 25 days after service of the decision.

(b) If any timely exceptions are filed, the Secretary may set a time for filing any response to the exceptions with supporting reasons. All exceptions and responses thereto shall be served on all the parties.

**§ 1955.43 Transmission of the record.**

If exceptions are filed, the Secretary shall request the administrative law judge to transmit the record of the proceeding to the Secretary for review. The record shall include the State plan; a copy of the Assistant Secretary's notice of proposed withdrawal; the State's statement of items in contention; the notice of the hearing if any; any motions and requests filed in written form and rulings thereon; the transcript of the testimony taken at the hearing, together with any documents or papers filed in connection with the preliminary conference and the hearing itself; such proposed findings of fact, conclusions of law, rules or orders, and supporting reasons as may have been filed; the administrative law judge's decision; and such exceptions, responses, and briefs in support thereof as may have been filed in the proceedings.

**§ 1955.44 Final decision.**

(a) After review of any exceptions, together with the record references and authorities cited in support thereof, the Secretary shall issue a final decision ruling upon each exception and objection filed. The final decision may affirm, modify, or set aside in whole or in part the findings, conclusions, and the

rule or order contained in the decision of the administrative law judge. The final decision shall also include reference to any material fact based on official notice.

(b) The Secretary's final decision shall be served upon all the parties and shall become final upon the 30th day after service thereof unless the Secretary grants a stay pending judicial review.

**§ 1955.45 Effect of appeal of administrative law judge's decision.**

An administrative law judge's decision shall be stayed pending a decision on appeal to the Secretary. If there are no exceptions filed to the decisions of the administrative law judge, the administrative law judge's decision shall be published in the FEDERAL REGISTER as a final decision and served upon the parties.

**§ 1955.46 Finality for purposes of judicial review.**

Only a final decision by the Secretary under § 1955.44 shall be deemed final agency action for purposes of judicial review. A decision of an administrative law judge which becomes final for lack of appeal is not deemed final agency action for purposes of 5 U.S.C. 704.

**§ 1955.47 Judicial review.**

The State may obtain judicial review of a decision by the Secretary in accordance with section 18(g) of the Act.

**PART 1956—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS APPLICABLE TO STATE AND LOCAL GOVERNMENT EMPLOYEES IN STATES WITHOUT APPROVED PRIVATE EMPLOYEE PLANS**

**Subpart A—General**

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